

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Served: November 21, 1996

Issued by the Department of Transportation
on the 15th day of November, 1996

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| U.S.-Toronto Third Year Service Proceeding |
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Docket OST-96-1538

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| U.S.-Toronto Exemption Proceeding |
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Docket 50049

ORDER TO SHOW CAUSE AND GRANTING EXEMPTION

By this order, we tentatively grant the applications of Continental Airlines, Inc. (Continental), Delta Air Lines, Inc. (Delta), Midway Airlines Corp. (Midway), and Northwest Airlines, Inc. (Northwest) to operate two daily round-trip scheduled combination frequencies each—Continental between Newark and Toronto, Delta between Atlanta and Toronto, Midway between Raleigh/Durham and Toronto, and Northwest between Minneapolis/St. Paul and Toronto. We also tentatively grant backup authority to Trans World Airlines, Inc. (TWA) (as backup to each of the primary selections) to operate two daily round-trip scheduled combination frequencies between St. Louis and Toronto. Interested parties are directed to show cause why we should not make the grant of this authority final.

Background

Under the provisions of the Air Transport Agreement between the United States and Canada (“Agreement”)¹ that provides for expanded economic opportunities in the U.S.-Canada aviation market, new service to Toronto is being phased in over a three-year period. During the first year from the date of the Agreement, the

¹ This Agreement was signed in Ottawa on February 24, 1995.

Department ultimately selected Delta to operate between Atlanta and Toronto and TWA to operate between St. Louis and Toronto, with each carrier able to operate up to two daily round-trip frequencies. During the second year, the Department selected Continental to operate between Newark and Toronto and USAir to operate between Washington, D.C. (National) and Toronto, with each carrier able to operate up to two daily round-trip frequencies.

For the third year, the U.S. is able to select up to four more carriers, with each carrier able to operate up to two daily round-trip frequencies. Any U.S. points and carriers may be selected, including existing gateways and incumbent carriers. A designation for the third year may be used to increase the number of frequencies available to a carrier awarded authority for the first or second year, up to a maximum of four daily frequencies.

On July 12, 1996, the Department instituted the *U.S.–Toronto Third Year Service Proceeding* (“*Toronto 3*”), Order 96-7-19, under the expedited show-cause procedures authorized by Subpart Q of our regulations, to select four primary carriers and backup carrier(s) to operate two new scheduled round-trip combination frequencies each between the U.S. and Toronto. No party raised objections to these procedures.

As we indicated in Order 96-7-19, in selecting carriers to provide the service at issue, our principal objective is to maximize the public benefits that can be expected to result from awarding this new authority. In this regard, we indicated that we would place primary emphasis on the effects of the applicants' service proposals on the overall market structure and the level of competition both between U.S. and Canadian flag carriers and among U.S. flag carriers in the U.S.-Toronto market, and any other market(s) shown to be relevant, in order to promote an air transportation environment that will sustain the greatest public benefits. We stated that we would also consider which carriers will be most likely to offer and maintain service that provides the maximum benefits to the traveling and shipping public. Finally, we indicated that we would consider other factors historically used in carrier selection where they are relevant.

Applications and Pleadings

Five applications were filed for the four available new service opportunities between the U.S. and Toronto during the third year of the Agreement—Continental for Newark-Toronto,² Delta for Atlanta-Toronto, Midway for Raleigh/Durham-Toronto, Northwest for Minneapolis/St. Paul-Toronto, and TWA

² Continental filed an application in Docket OST-96-1138 seeking two daily Newark-Toronto frequencies effective February 24, 1997, which it later sought by motion to consolidate into this docket. No party objected. We will therefore hereby grant Continental's motion.

for St. Louis-Toronto. Each applicant proposed to operate the authorized maximum of two round-trip nonstop flights per day in its market. A table summarizing the basic service proposals is attached to this order.

Each of the applicant carriers filed Direct and Rebuttal Exhibits, in support of its application, including, where relevant, self-diversion data. In addition, Direct and Rebuttal Exhibits were filed by several civic parties. Direct Exhibits were filed by the St. Louis Parties (the City of St. Louis and the St. Louis Airport Commission), the Regional Business Partnership (Newark), and the Raleigh-Durham Airport Authority (filed jointly with Midway). Rebuttal Exhibits were filed by the St. Louis Parties, the Regional Business Partnership (Newark), the Georgia and Atlanta Parties, and the Raleigh-Durham Airport Authority (filed jointly with Midway).

Briefs in support of the applications were also filed by each of the applicant carriers, as well as by several civic parties. Specifically, the Minnesota Department of Transportation filed in support of Northwest, the St. Louis Parties filed in support of TWA, the Regional Business Partnership (Newark) filed in support of Continental, the Raleigh-Durham Airport Authority filed (jointly with Midway) in support of Midway, and the Georgia and Atlanta Parties filed in support of Delta. The Department also received a large number of letters in support of the applicants from various governmental, civic and business interests which were filed in the public docket and served on all parties.

Position of the Parties

Continental

Continental proposes to operate two daily round-trip Newark-Toronto nonstop flights with 128-seat B-737-300 aircraft, providing single-plane service to Jacksonville, Florida and Greensboro, North Carolina. In support of its application, Continental argues that (1) it would bring critical public benefits to the largest local Toronto market and the predominant east coast market; (2) the additional frequencies will enable Continental to compete more effectively with Canadian carriers in a high traffic market; (3) it would increase competition with the two largest U.S.-Canadian transborder alliances in their home markets; and (4) it has the second largest forecast of net passengers after self diversion and the third largest total passenger forecast.

In response, the other applicants contend that (1) New York/Newark is already a well-served Toronto market, with 18% of the U.S.-Toronto traffic and 18% of the seats; (2) New York/Newark receives more nonstop service to Toronto by U.S. and foreign carriers than any other region in the U.S.; (3) additional service from Newark would exacerbate the east/west imbalance of service in U.S.-Toronto

markets; and (4) Continental's traffic forecast is based on a low growth rate and some circuitous connections.

Delta

Delta proposes to operate two daily roundtrip Atlanta-Toronto nonstop flights with 142-seat MD-88 aircraft. In support of its application, Delta argues that (1) Atlanta, Delta's principal hub, is the country's largest hub and the largest local market at issue without unrestricted nonstop U.S. flag service; (2) the additional frequencies are well-timed to meet the needs of the Atlanta-Toronto market and complement existing services, allowing Delta to accommodate both local and connecting passengers; (3) Delta would compete directly against Air Canada's new nonstop service at Atlanta and against both U.S. and Canadian carriers at other gateways; and (4) Delta provides more local and behind-gateway benefits than the other applicants.

In reply, the other carriers argue that (1) Delta has dramatically reduced Toronto services by canceling service from other gateways and routing the traffic through its already crowded Atlanta hub; (2) its Cincinnati hub meets most of the needs of the connecting traffic it proposes to carry over Atlanta and provides better service; and (3) Delta is not an effective competitor for connecting passenger traffic because of its small market share in the U.S.-Toronto market.

Midway

Midway proposes to operate two daily roundtrip Raleigh/Durham-Toronto nonstop flights with 98-seat FOKR-100 aircraft, providing single-plane service to Tampa. In support of its application, Midway argues that (1) Raleigh/Durham, Midway's principal hub, is the largest U.S.-Toronto market at issue without nonstop service and the fastest growing applicant gateway in the U.S.-Toronto market; (2) the selection of Midway follows Department policy of promoting new entrants in an international market and strengthening small air carriers to ensure a more effective and competitive market; (3) Midway would provide single-plane service to Tampa, which has a very large Toronto market; (4) it provides the most significant competitive challenge to existing and proposed U.S. and Canadian services by providing service to a new gateway in the U.S.-Toronto market; and (5) nonstop service by two competing carriers (Air Canada and Midway) in an underserved market will stimulate more traffic.

In reply, the other carriers argue that (1) Midway has the smallest hub in the proceeding and would operate the smallest aircraft (along with TWA); (2) Midway would operate in the second smallest local market, provide the fewest online behind-gateway service benefits of all applicants, and has provided the second smallest traffic forecast; (3) its forecast connections imply large-scale revamping of the hub patterns at Raleigh-Durham, which does not appear to be

realistic or in the carrier's best interest; and (4) the Tampa-Toronto market is already well served by Delta and USAir.

Northwest

Northwest proposes to operate two daily round-trip Minneapolis/St. Paul-Toronto nonstop flights with 190-seat B-757 aircraft, providing single-plane service to Orange County, California and Portland, Oregon. In support of its application, Northwest argues that (1) Minneapolis is a large Northwest hub with substantial direct online connections providing connecting service for the largest number of western points; (2) Minneapolis is the largest Toronto market in the case without U.S. flag nonstop service; (3) Northwest's Minneapolis service would create intergateway and intercarrier competition with American and United at Chicago and TWA at St. Louis; and (4) it forecasts the highest total passengers and net passengers after self-diversion, as well as the highest load factors.

In reply, the other applicants argue that Northwest's proposal lacks significant public benefits because (1) Northwest would largely duplicate existing service over Chicago by American and United, and its own service over its larger Detroit hub, both of which serve western points with nearly equal circuitry; (2) it already has unrestricted access from the Detroit hub; (3) it has the highest self-diversion; and (4) Minneapolis is a relatively small local O & D market.

TWA

TWA proposes to add two daily round-trip St. Louis-Toronto nonstop flights with DC-9-30 aircraft, with year round daily one-stop roundtrip service to New Orleans, Kansas City, Austin, and San Antonio. In support of its application, TWA argues that (1) additional frequencies will maximize intergateway competition among U.S. flag carriers as well as with the code share alliances of U.S. and Canadian airlines; (2) St. Louis is the second largest hub at issue in this proceeding by daily departures (behind Delta's Atlanta hub); (3) TWA will provide major service benefits to the underserved west through extensive online connecting services, as well as provide a competing hub to serve the west and offset the increased market concentration in Chicago; (4) it will engage in direct competition with Air Canada at St. Louis and with U.S. flag carriers at behind-gateway points; and (5) its high frequency, smaller equipment will enable it to maximize connections and improve its competitive position.

In response, the other applicants argue that (1) St. Louis is a small local O & D market, while TWA's behind-gateway online connecting services largely duplicate service over Detroit and Chicago and overlap Northwest's service area; (2) TWA's passenger levels for the previously awarded service have been below levels forecast and TWA plans to reduce capacity, while still requesting additional frequencies; (3) the Western market is already well served by

Chicago, Detroit, Cincinnati, and existing St. Louis flights; and (4) TWA has the smallest forecast in the proceeding and the lowest forecast load factor.

Tentative Decision

This proceeding offers us the choice of four of five carriers and gateway points. We have tentatively decided that the selection of Continental, Delta, Midway, and Northwest effectively achieves the most public interest benefits satisfying the selection criteria of this proceeding. More specifically, we tentatively find that the proposals of Continental, Delta, Midway, and Northwest will offer the strongest competition to foreign flag carriers and other U.S. flag carriers in the U.S.-Toronto market, especially in city-pair markets where Canadian flag carriers have initiated service since the signing of the Agreement. In addition, the selection of these carriers will provide intergateway and intragateway competition, while introducing a new carrier to the U.S.-Toronto market with service to important southeastern markets.

Toronto is by far the largest Canadian market from the U.S., accounting for 45 percent of total U.S.-Canada nonstop segment and onflight O & D traffic. The 1995 Agreement with Canada provided for immediate, completely free entry to the U.S. market for all Canadian carriers. U.S. carriers, however, have been restricted in their operations at Toronto during the initial three-year phase.

As we stressed in the first- and second-year Toronto Service Proceedings, Orders 95-11-1 and 96-7-18, the enormous relative size of the Toronto market, with nearly five million nonstop segment passengers per year to and from U.S. gateways, and the advantage accruing to Canadian carriers in the years before full liberalization, make it imperative that the U.S. select the carriers that will offer the strongest head-to-head competition with Canadian carriers. This primary goal is especially important this year because of the need for U.S. carriers to develop U.S.-Toronto city-pair markets that have been entered by Canadian flag carriers during the phase-in period.

As we stated in Order 96-7-19, the primary emphasis in this proceeding is on the effects of the applicants' service proposals on the overall market structure and the level of competition both between U.S. and Canadian flag carriers and among U.S. flag carriers in the U.S.-Toronto market. It is critically important in shaping the developing competitive environment that we select the carriers that will be the strongest competitors in the market if we are to maximize the use of these valuable U.S.-Toronto bilateral rights. The selection of Continental, Delta, Midway, and Northwest will result in the greatest level of competition with both Canadian and other U.S. flag carriers, while having a positive effect on the overall U.S.-Toronto market structure.

Competitive Issues

In assessing the competitive impact of each carrier's proposal, we were again compelled to balance the issue of competition among U.S. carriers and of competition between U.S. carriers as a class and their foreign competitors. In this case, selection of Continental, Delta, Midway, and Northwest will maximize competition between U.S. and Canadian flag carriers in the U.S.-Toronto market. The competition that Continental, Delta, Midway, and Northwest will offer to Canadian flag carriers remains an especially important consideration in the interim period when U.S. carriers remain restricted but Canadian carriers do not.

Since the signing of the Agreement, Air Canada has announced that it will introduce two daily frequencies at Raleigh/Durham beginning November 18, 1996, and has already introduced three daily frequencies at St. Louis, four daily frequencies at Atlanta and Minneapolis-St. Paul.³ Air Canada had unrestricted authority at Newark prior to the 1995 Agreement, and currently operates six daily frequencies there. Air Canada is able to take competitive advantage of U.S. limitations to develop a strong market presence at important U.S. airports without, or with only limited, nonstop U.S. flag service while U.S. carriers remain constrained in their competitive response. We tentatively find that it is critical to provide authority for U.S. carriers to compete with the Canadian flag carrier in these developing markets so as to avoid significant harm to the overall U.S. competitive position.

Since four of the five applicants will be awarded frequencies in this case, we have undertaken to determine which four carriers best enhance the market structure and maximize competition. Although each of the applicants has strong points in its favor, and each would offer competition to Canadian carriers and other U.S. carriers in some respect, we tentatively find that award of authority to those carriers proposing to operate in city-pair markets currently lacking nonstop U.S. flag service provides the greatest overall benefits. This approach yields greater marginal benefits for the structure of the market and greater marginal competitive benefits than the award of authority to carriers already providing service between their proposed gateways and Toronto provides, even though their services are limited to two daily frequencies.

Midway and Northwest are the two carriers in this proceeding whose selection would result in the initiation of nonstop U.S. flag service at their respective gateways, Raleigh-Durham and Minneapolis-St. Paul. In each case, those services would be in competition with a Canadian flag carrier. Air Canada will begin providing nonstop service between Raleigh-Durham and Toronto twice

³ Air Canada also instituted five daily frequencies at Washington, D.C. (National), a gateway selected for second-year service.

daily in November, and already provides four daily frequencies between Minneapolis-St. Paul and Toronto.

Allowing Midway to begin service in February of 1997 would prevent Air Canada from gaining a potentially insurmountable competitive advantage in this important market. Midway would provide competition not only with Air Canada at Raleigh-Durham, but also with American, Continental, Delta, and USAir in numerous behind-gateway markets. Midway would also be a new entrant in the U.S.-Toronto market. While Midway operates a relatively smaller hub at Raleigh-Durham than the other carriers in this proceeding operate at their gateways, Raleigh-Durham is nevertheless an important local O & D market, with 72,550 Toronto roundtrip passengers forecast for the year ending March 1998. In addition, Raleigh-Durham is the fastest growing local market in the case, with 14.4 percent annual growth experienced over the past five years.⁴ Further, if Midway were not selected in this proceeding, Air Canada would possess a monopoly on nonstop services between Raleigh-Durham and Toronto. Finally, the selection of Midway is likely to stimulate traffic and is certain to enhance both inter- and intra-gateway competition.⁵

Northwest proposes to operate between Minneapolis-St. Paul and Toronto, the largest U.S. hub without U.S. flag nonstop Toronto service. Northwest would also provide non-circuitous direct online connections with a large number of western points,⁶ as well as online connecting service to Tokyo from Minneapolis-St. Paul and to Hong Kong and Osaka via Seattle. The selection of Northwest would further intragateway competition due to the fact that Northwest would compete head to head with Air Canada's four daily flights at Minneapolis-St. Paul. Northwest would also compete with American Airlines and United Airlines at Chicago, and with TWA at St. Louis, thereby furthering the goal of intergateway competition. In addition, the selection of Northwest would result in offering more service options to the public and would further the goal of enhancing competition between U.S. carriers at a number of behind gateway points. Even after taking into account self-diversion, Northwest would carry the most passengers of any applicant, over 160,000 per year.⁷

Of the remaining three carriers seeking third and fourth frequencies, we tentatively find that the selection of Continental and Delta would maximize the public benefits in this proceeding. Continental and Delta would operate in the largest local markets by far, Newark and Atlanta, with 817,035 and 193,288

⁴ Direct Exhibit of Midway and Raleigh-Durham Airport Authority, at JI-411, p.

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⁵ Brief of Midway and Raleigh-Durham Airport Authority, at 7.

⁶ Brief of Northwest, at 6-9.

⁷ Direct Exhibit of Northwest, NW-300, at 3.

passengers forecast for the year ending March 1998, respectively.⁸ In comparison, TWA forecasts only 77, 035 passengers in the St. Louis-Toronto market in the same period.⁹ In addition, Continental and Delta forecast by a wide margin the greatest number of connecting passengers of the three carriers hoping to add additional frequencies to their existing services, with 91,265 and 86,194, respectively.¹⁰ In comparison, TWA forecasts only 54,289 connecting passengers.¹¹ Continental and Delta, using their significant hub structures to carry passengers from a large number of behind-gateway points, would provide new service options to a large numbers of travelers while enhancing competition.

We tentatively find that the selection of Continental and Delta would also further the goals of enhancing market structure and increasing competition both between U.S. and Canadian flag carriers and among U.S. flag carriers in the U.S.-Toronto market. Continental and Delta would provide the most intra-gateway competition, Continental by competing with American, Air Canada, and Canadian Air International, Inc. (CAI) in the New York/Newark-Toronto market, and Delta by competing with Air Canada in the Atlanta-Toronto market. These two carriers would also further competition with foreign flag carriers. Finally, Continental and Delta would each provide expanded intergateway competition in the predominant U.S.-Toronto corridor in the east.

While TWA's service proposal offers significant public benefits, those benefits are fewer than the benefits offered by the proposals of Continental and Delta—the other carriers asking to add additional frequencies to their existing services. TWA proposes to serve the smallest local market with the smallest local O & D traffic. In addition, TWA offers the fewest seats, 143,080 annually, in contrast to Continental's 183,703 and Delta's 207,320, and forecasts the fewest overall passengers of the three remaining applicant carriers, 84,546 annually, in contrast to Continental's 127,580 and Delta's 139,709.¹²

TWA also faces less foreign flag competition than Continental and Delta, since Air Canada serves St. Louis with only three daily frequencies, in contrast to Air

⁸ Newark alone has a local traffic base for the year ending March 1998 of 196,130 passengers. Direct Exhibit of Continental, CO-305, at 1, and Direct Exhibit of Delta, DL-301, at 1.

⁹ Direct Exhibit of TWA, TW-301 (revised), at 1.

¹⁰ Direct Exhibit of Continental, CO-304, at 2 and 5. Direct Exhibit of Delta, DL-301, at 1 and 4.

¹¹ Direct Exhibit of TWA (revised), TW-301, at 3. Direct Exhibit of Continental, CO-304, at 5. Direct Exhibit of Delta, DL-301, at 4.

¹² Direct Exhibit of TWA (revised), TW-301, at 1-2.

Canada's six daily frequencies at Newark, ten daily frequencies at LaGuardia,¹³ and four daily frequencies at Atlanta. As a result, the enhancements to market structure and competition that would result from TWA's proposal are somewhat less in magnitude than the enhancements that would result from Continental's and Delta's proposals.

As discussed above, we tentatively find that the selection of Continental, Delta, Midway, and Northwest in this proceeding will provide the best overall market structure in the United States-Toronto market pending the full liberalization of the market. The selection of Midway also offers the competitive benefit of introducing a new U.S. flag carrier to the U.S.-Toronto market.

The fact that an unlimited number of carriers will be free to enter the market without frequency or capacity restraints in February 1998, makes it possible for all the applicants to begin unlimited service to Toronto in a little over a year. Immediately, however, the U.S.-Toronto market will benefit most from Continental, Delta, Midway, and Northwest's ability to challenge Air Canada and CAI in the markets each has entered with either no, or restrained, U.S. flag competition. This competition is critical to the overall the U.S. carrier position in the U.S.-Toronto market.

We tentatively find that the selection of Continental, Delta, Midway, and Northwest will also further intergateway and intragateway competition. Each carrier, by offering attractive service options with its developed hub structure and significant online connecting services, and in particular its single-plane services, will provide considerable competition against both U.S. and Canadian carriers at these and other gateways.

Service Benefits

In tentatively selecting the four carriers that will provide the maximum benefits to the traveling and shipping public in the United States-Toronto market, we have also looked at the service benefits that can be accomplished by the award of authority at issue here. This approach ensures that the scarce bilateral rights available in this market under the Agreement will be used to the fullest extent possible.

The four carriers tentatively selected, by offering attractive service options with their developed hub structures and online connecting services, will provide improved service options to large numbers of U.S.-Toronto passengers in many areas of the country. While the proposal of TWA would also provide service benefits, we have tentatively determined that these benefits are somewhat less

¹³ CAI also operates twelve daily frequencies at LaGuardia—five with its own equipment and seven under a code-share agreement with American Airlines.

in magnitude than the benefits offered by the proposals of the other four applicant carriers, and outweighed by the structural benefits of the other proposals.

Backup authority

Having tentatively selected Continental, Delta, Midway, and Northwest, we must now address the issue of backup authority. We have tentatively determined to award backup authority to TWA (as backup to each of the primary selections) to operate two daily round-trip scheduled combination frequencies between St. Louis and Toronto.

The service proposal of TWA offers meaningful public interest benefits. These benefits are only somewhat less in magnitude than the benefits offered by the proposals of the competing carriers. St. Louis is geographically well situated to enable TWA to compete with United and American at Chicago and Northwest at Detroit and Minneapolis-St. Paul. At the same time, TWA would provide online connecting service to a number of western points, bringing many nonstop seats to the U.S.-Toronto market.

Dormancy Provisions

As in the first and second year proceedings, we have tentatively decided to include a 45-day dormancy provision in the certificates that will be issued pursuant to a final order in this case.

Exemption Authority

On February 24, 1997, the third-year authority at issue here becomes available. We have determined that it is in the public interest to maximize the use of this scarce bilateral authority by allowing service to commence on that date. However, we are not prepared to omit the procedural step of a show-cause order, with its opportunity to allow interested parties to comment on our tentative decision. Therefore, we have decided to grant Continental, Delta, Midway, and Northwest temporary, *pendente lite* exemption authority by this order to serve Newark-Toronto, Atlanta-Toronto, Raleigh/Durham-Toronto, and Minneapolis/St. Paul-Toronto, respectively, which we have tentatively decided to award here. This action provides each carrier an opportunity to prepare and market its authority and to apply to Canadian authorities for authorization pending the issuance of a final order, while preserving our ability to change our tentative decision if we receive comments on this order that justify such a change.

The authority granted here is only temporary, and will not affect the final outcome of this proceeding. Furthermore, no party is prejudiced by granting this exemption. Like *pendente lite* exemption authority awarded by the Department in similar

proceedings, each carrier's authority will remain effective for forty-five days following the issuance of a final order in this proceeding.

Petition for Reconsideration

Within days of the signing of the 1995 Agreement, by Order 95-2-52, the Department granted *pendente lite* exemption authority in Docket 50049¹⁴ to allow Delta and USAir to institute service to Toronto pending a selection proceeding in the first-year case. The Department subsequently received a petition to reconsider that order from Continental.

The first-year selection proceeding was completed before action was taken on the petition for reconsideration, and that petition is therefore moot and will be dismissed.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order making final our tentative findings and conclusions;
2. We grant Continental's motion to consolidate;
3. We dismiss as moot a petition for reconsideration of a final order filed in the first-year Toronto exemption proceeding, Docket 50049;
4. We direct interested persons wishing to comment on our tentative findings and conclusions, or objecting to the issuance of the order described in paragraph 1, to file an original and 5 copies in Docket OST-96-1538 and serve on all persons on the service list in that docket, a statement of such objections, together with any supporting evidence the objector wishes the Department to notice, not later than November 26, 1996. Answers to objections shall be due December 6, 1996;¹⁵
5. If timely and properly supported objections are filed, we will afford full consideration to the matters or issues raised by the objections before we take further action. If no objections are filed, we will deem all further procedural steps

¹⁴ This proceeding was subsequently redesignated Docket OST-95-63.

¹⁵ The original filing should be on 8 1/2" X 11" white paper using dark ink and be unbound without tabs, which will expedite use of our docket imaging system. We will authorize service by fax in this proceeding. All pleadings should include a fax number for service.

to have been waived, and proceed to enter a final order subject to Presidential review under 49 U.S.C. § 41307;

6. We temporarily exempt Continental, Delta, Midway, and Northwest from the provisions 49 U.S.C. section 41101 and the terms, conditions, and limitations of their respective certificates of public convenience and necessity to the extent necessary to permit each carrier to provide, beginning February 24, 1997, scheduled foreign air transportation of persons, property, and mail between the gateway tentatively selected to receive service in this proceeding, and Toronto, Canada, up to a maximum of two flights per day in each direction. This authority will remain effective for forty-five days following the issuance of a final order in this proceeding; and

7. We shall serve this order on all parties in Docket OST-96-1538.

By:

PATRICK V. MURPHY
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)